

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 34**

QUINNIPIAC UNIVERSITY

Petitioner

and

QUINNIPIAC FACULTY FEDERATION  
LOCAL 3394, CONNECTICUT STATE  
FEDERATION OF TEACHERS

Union <sup>1</sup>

Case No. 34-UC-130

**DECISION AND REVOCATION OF CERTIFICATION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding, I find that the hearing officer's rulings are free from prejudicial error and are affirmed, the Petitioner is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction; and the Union is a labor organization within the meaning of the Act.

The Petitioner filed the instant petition to clarify the bargaining unit presently represented by the Union to specifically exclude all of its full-time faculty members, including librarians, from the unit because it contends they are managerial employees within the meaning of *NLRB v. Yeshiva University*, 444 U.S. 672 (1980).

For the reasons noted below, I find that all of the Petitioner's full-time faculty members are managerial employees warranting their exclusion from the unit. Accordingly, I shall grant the Petitioner's motion to clarify the unit, and revoke the Union's certification.

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<sup>1</sup> The name of the Union appears as amended at the hearing.

## **I. The Petitioner's Operations and Collective Bargaining History**

The Petitioner (herein also called the University) is engaged in the operation of a private, nonprofit university located in Hamden, Connecticut. Pursuant to a representation election in Case No. 1-RC-13,716, the Union was certified on May 23, 1975 as the exclusive collective bargaining representative of the Petitioner's full-time faculty members, as described below. Thereafter, the parties have negotiated successive collective-bargaining agreements, the most recent of which is effective from July 1, 2002 to July 1, 2006, and described the unit as:

All full-time Faculty Members employed by the University in the United States, including Department Chairs, Directors, Athletic Department faculty members, librarians, counselors, and clinical coordinators, but not the President of the University, the Vice-Presidents, Deans, Associate or Assistant Deans, the Athletic Director, the Director of Instructional Resources, library and audio-visual technicians, the Registrar, all office clerical employees, employees paid by the semester hour, who are not subject to the acquisition of tenure, all other non-academic confidential employees, guards and supervisors. Full-time faculty members employed in programs outside the United States supported by University resources without external reimbursement will be represented by the Quinnipiac Faculty Federation, unless there be agreement by the University and the Federation to the contrary.

The Petitioner, originally known as the Connecticut College of Commerce, was founded in 1929, at which time it only awarded associate degrees. In or about 1951, the Petitioner changed its name to Quinnipiac College and began offering baccalaureate degrees. In the 1970's, the Petitioner began offering master's level degrees and in about 1996, the University acquired a law school. In or about 2001, to reflect the diversity of its programs, the Petitioner changed its name from Quinnipiac College to its current name. It presently offers undergraduate and graduate level programs in the following six schools or colleges: the School of Business, the School of Communications, the School of Health Sciences, the College of Liberal Arts (which also includes a division of Education), the College of Professional Studies and the School of Law.<sup>2</sup> There are approximately 7,000 full-time and part-time graduate and undergraduate students enrolled at the University. There are about 240 full-time faculty

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<sup>2</sup> The petition does not concern the faculty in the law school who are not currently represented by the Union.

members, excluding the law school. Students have the option of receiving undergraduate degrees in 50 fields of study, and master degrees in 18 fields of study.

**A. University Structure and Governance**

The University is ultimately governed by a Board of Trustees that maintains overall responsibility for the University's academic and financial affairs. The Board of Trustees also hires the president of the University. The Board is composed of 32 public members from the general community, including the University president as an ex officio public member, and six additional non-public members. The non-public members are the president of the Alumni Association, the president of the student government association, one additional elected student representative, and three faculty members, including the president of the Faculty Senate, described below, and two others elected by the faculty to serve as at-large members.

John Lahey, the President and Chief Executive Officer of the University, has overall responsibility for the fiscal and academic integrity of the University. Reporting directly to Lahey are Senior Vice President of Academic Affairs Dr. Kathleen McCourt, Senior Vice President for Finance and Administration Patrick Healy, and five Vice Presidents, each of who is responsible for one of the following five departments: Development and Alumni Affairs; Admissions; Student Affairs; Public Affairs; and Information and Technology. Collectively, these seven individuals are known as the President's Cabinet.

Senior Vice President McCourt has overall responsibility for the University's academic mission, including the academic affairs budget, the final oversight on personnel decisions within the academic departments, and the maintenance of quality within the academic programs. Reporting directly to McCourt are three associate vice presidents, one each for Academic Affairs, Faculty Relations and On-Line Academic Programs; the Director of the University's Albert Schweitzer Institute; and the Dean of each of the University's six schools.

The Deans are responsible for administering their respective school or college. Their duties include overseeing the budgeting process and ensuring that students' academic concerns are met. To this end, as described in greater detail below, each Dean works with their respective school's or college's faculty to set the direction therein.

With the exception of the Dean of the College of Professional Studies, each Dean has an Associate Dean and an Assistant Dean who reports to them. Reporting directly to the Dean of the College of Professional Studies is the Director of Admissions and Advising and the Executive Director of the Organizational Leadership Program. In addition, reporting directly to the Dean for the School of Business is the Director of the Master of Health program and the Director of the MBA program. Reporting directly to the Dean of the School of Communications are the Directors of the Graduate Programs in Journalism and the Ed McMahon Mass Communications Center. Reporting directly to the Dean of the College of Liberal Arts is the Dean for the Education Division and the Director of University Curriculum.

A Deans' Council composed of the six Deans and chaired by Senior Vice President McCourt, meets twice monthly to share information about each school or college and review issues affecting the University, such as publication deadlines, degree programs, and the effectiveness of certain academic policies. However, the Deans' Council does not have any decision-making authority with respect to academic policies or curriculum. As noted above, Deans, Assistant Deans, and Associate Deans are not faculty members and are not included in the unit.

With the exception of the College of Professional Studies, each of the remaining five schools and colleges are further broken down into separate departments that oversee individual degree programs. There are a total of approximately 26 departments, each of which is overseen by the department's chairperson, all of who are faculty members and are included in the unit. Some departments oversee multiple degree programs. In those cases, the chairperson oversees a program director within the department, also a faculty member,<sup>3</sup> who further oversees that specific program. Department chairpersons report directly to their respective dean. The responsibilities of chairpersons include administering departmental budgets; assisting department faculty to develop and determine course selection within a degree program; assisting students with their academic concerns; ensuring that students have advisors for their degree program; ensuring that the University maintains a sufficient number of faculty members

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<sup>3</sup> The director of the master of health program in the school of business is not represented by the Union.

in order to teach those courses; and scheduling faculty members accordingly. In this regard, chairpersons are responsible for hiring, re-appointing or dismissing approximately 250 to 300 adjunct and part-time faculty employed by the University during each academic semester. Because of their additional duties, chairpersons receive a stipend and are assigned to half of the regular teaching load.

Departmental chairpersons are elected by their colleagues. The Dean can either accept or reject the recommendation. If accepted, chairpersons serve a three-year term that may be renewed if the faculty re-elects them. The record reveals only one instance where a Dean rejected the faculty's recommended chairperson.

Full-time and regular part-time faculty members participate in University governance primarily through the Faculty Senate (herein "Senate"), a body elected by the faculty to represent it in academic and non-academic matters. The Senate currently consists of 23 members, 22 of whom are voting faculty members and serve a one-year term. There are two full-time faculty representatives from each of the five undergraduate schools for a total of ten members; one part-time faculty representative; and 11 additional faculty members, including librarians and law school faculty members, elected by the faculty on an at-large basis. Dr. McCourt serves as a non-voting, *ex officio* member. The 22 full-time faculty members holding Senate positions are elected by their colleagues to serve staggered two-year terms.

The Senate is guided in its operation by a Constitution and Bylaws, which is approved by the Board of Trustees and delineates the Senate's authority and responsibilities. The Constitution specifies that the Senate represents faculty regarding the:

formulation and implementation of policies concerning the future of Quinnipiac University, its educational undertakings, the facilities and services provided for students and the utilization of human, financial, and physical resources which are committed to accomplishing the objectives of the University.

The full Senate meets at least twice monthly during which time they accept, reject or table recommendations issued by its various committees, described below. Following each full Senate meeting, the Senate Chairperson electronically distributes the minutes of that meeting to all faculty members for their review. Additionally, the

Senate forwards its recommendations to the University president, generally in the form of a Senate Resolution. Within 30 days of receiving the Resolution, the University president may approve or disapprove the Resolution; may notify the Senate that the matter requires action by the Board of Trustees; or may confer with the Senate to propose changes to the Resolution. If the University president disapproves a Senate Resolution, or indicates no action during the agreed time period, the matter may: 1) be re-passed by the current Senate; or 2) be re-considered by the Senate of the succeeding academic year. If re-passage is voted by two-thirds of the full Senate, the University president is required to submit the matter to the Board of Trustees or to approve the Resolution. Upon submission of a Senate Resolution to the Board of Trustees, the Senate Chairperson who sits on the Board of Trustees, and one other delegate, represent the Senate when the Board of Trustees meets to discuss the matter. The record reveals only one instance where the University president disapproved a Senate Resolution. That resolution did not involve proposed changes to academic policies, curriculum, or programs.

In carrying out its functions, the Senate has divided itself into eight standing committees: the Committee on Privilege; the Academic Policies Committee; the Committee on Aims, Objectives, and Future Plans of the University; the Finance Committee; the Committee on Research; the Library Committee; the Core Curriculum Committee; and the Information Technology Committee. The full Senate elects committee members.

The Committee on Privilege is composed of three full-time Senate members. This committee makes appointments to all Senate committees in order to ensure that they are fully represented and maintains a roster of all committee members. It also makes determinations regarding the election of senators, discipline matters involving Senate members, and interpretations of the Senate's Constitution and by-laws.

The Academic Policies Committee is composed of three faculty Senate members, two faculty members from each school, one member of the combined faculty, and Senior Vice President McCourt sitting in a non-voting ex officio designation. This Committee examines and makes recommendations regarding any proposed changes to the University's teaching standards and academic policies, including any new degree

programs or modifications to existing programs in any of the schools. If a new policy or program is approved, this Committee also performs a review of that program two years following its implementation.

The Committee on Aims, Objectives, and Future Plans of the University is composed of one full-time faculty member from each school, two Senators, one student representative, and Senior Vice President McCourt sitting in a non-voting ex officio designation. As its name implies, this Committee reviews and makes recommendations regarding any proposed revisions to the University's statement of purpose, planning and budget priorities, and other changes in aims, objectives or future plans of the University. Recently considered issues include the role of part-time faculty, diversity and preparation for visits from accreditation bodies.

The Finance Committee is composed of one full-time faculty member from each school, one senator, one full-time student, the Vice President for Finance and Administration, and the Dean of Student Affairs, the latter two sitting in a non-voting, ex-officio capacity. This Committee reviews, evaluates and provides input on budget priorities for the present and future academic years. In doing so, the Committee makes proposals to the Senate regarding the approval of the University's proposed budget.

The Committee on Research is composed of one full-time faculty member from each undergraduate school and three faculty senators. This Committee reviews and makes recommendations to the Senate relative to existing and future policies and guidelines governing the University's various research programs.

The Library Committee is composed of three senators, one full-time faculty member from each undergraduate school, at least one of the five faculty librarians, and the Director of the Library (who sits in a voting capacity). This Committee reviews all issues regarding the University's library, including acquisition policies, collections and policies.

The Core Curriculum Committee is composed of three senators, one full-time faculty member from each of the undergraduate schools, the Dean of each undergraduate school, and Senior Vice President McCourt. The Deans and Dr. McCourt sit in a non-voting, ex-officio capacity. As its name implies, this Committee reviews and proposes changes to the University's core curriculum.

The Information Technology Committee is composed of three senators, one full-time faculty member from each school and one full-time faculty member from the Law School. Also sitting on this Committee in a non-voting, ex-officio capacity are the Dean of Academic Technology, the Chief Information and Technology Officer, the Dean of each school, and the Director of the Library. This Committee develops policies concerning information technology, such as the review of software and hardware.

Aside from the Senate and its various committees, the full-time faculty also participates in University-wide, college-wide and department-wide governance through numerous other bodies. The University-wide committees, which are mostly composed of faculty members elected by the Senate or by the faculty at-large, include, *inter alia*: 1) the Academic Deficiencies Committee, which reviews the academic records of those students who are experiencing academic difficulties, and decides whether the student will be suspended, expelled, or placed on probation; 2) the Academic Integrity Board, which makes determinations regarding students accused of academic dishonesty; 3) the Excellence in Education Seminar Series Committee, which deals with developmental programs for faculty in order to enhance teaching skills; 4) the President's Faculty Council on University Finances, which is composed of faculty members appointed by the University president to provide him with input regarding the prioritization of long-range financial decisions, and the commensurate allocation of funds for those decisions; 5) the Committee on the Center for Excellence in Teaching and Service to Students, which has various functions, including selecting faculty members for awards for outstanding teaching, reviewing students' surveys on their teachers, and sponsoring outside speakers to address faculty members on teaching matters; 6) the E-Portfolio Committee, which develops ideas for developing students' electronic portfolios; 7) the Honors Committee, which shapes and provides oversight to the University's honors program; 8) the President's Planning Council, which meets with the President's Cabinet, Deans and senior academic administrators to review the University's academic and non-academic strategic plans, such as enrollment and admission trends; 9) the Faculty Research Committee, which accepts proposals from faculty regarding research issues, such as small grants and release time from teaching, and determines which faculty members will receive such grants and release time; 10)



the Graduation Review Committee, which reviews the credentials of students who are candidates for graduation to ensure they have completed all degree requirements; 11) the QU On-Line Board, which reviews all proposals regarding on-line courses or programs; 12) the Technology Users Group (Academic Affairs), which reviews ideas regarding the use of technology in teaching; 13) the Writing Across the Curriculum Committee, which oversees all initiatives related to the improvement of students' writing skills in all degree programs; 14) the Review Committee, which reviews and renders opinions on all departmental decisions regarding re-appointment, tenure, promotion or termination; 15) the Sabbatical Committee, which invites and reviews applications from faculty interested in sabbatical leaves and then determines which faculty will be granted such sabbaticals; and 16) the Safety Committee, which reviews all health and safety issues on campus that affect faculty and students.

**B. Faculty Involvement in Academic Affairs**

**1. Curricula**

As a result of the Senate and the above committees, the faculty has, since at least 2001, maintained control over most curriculum issues. In this regard, the Senate must approve any changes to program requirements, including course additions (such as a new major or minor degree), deletions and substitutions affecting any course with nine or more credit hours. Courses involving less than nine credit hours can be modified by the faculty in the particular department without Senate approval.

Toward this end, since January 2002, the Senate has successfully approved approximately 26 new undergraduate or graduate academic programs, including minor degrees; the discontinuation of five academic programs; and the modification of nine academic programs by, for example, increasing the number of credit hours or changing degree requirements. Conversely, during that same period, there is no evidence that the University president rejected any of the Senate's recommendations for a new, discontinued or modified academic program. After a new degree program is adopted, the Senate, through the Academic Policies Committee, conducts a two-year review of the program to determine whether or not to modify or continue the program. The College of Business also maintains a Graduate and Undergraduate Curriculum Committee composed primarily of faculty members. This committee considers

proposals with respect to new courses, modifications in existing courses and proposals for new degree programs within that school.

In 2004, the Board of Trustees and the Senate approved an amendment to the University's Manual of Institutional, Academic and Personnel Policies to reflect the faculty's authority with respect to curriculum matters. The amendment specifies:

Only full-time faculty at Quinnipiac University, acting in whatever units or groups as appropriate, have the authority to approve any and all degrees and for-credit courses offered by Quinnipiac University, including all degrees offered by the College of Professional Studies.

With regard to the core curriculum, the Senate in 2001 approved a proposal by the Core Curriculum Committee to review and develop a new core curriculum. After three years of review on the matter, the Senate in 2004 approved significant revisions to the core curriculum, which is to become effective in the fall semester of 2006. In addition, beyond the university-wide core curriculum, each school's faculty sets that school's core curriculum without Senate or administrative approval. For example, in the fall of 2005, the School of Business implemented a new business core curriculum that was approved by that school's faculty. In so doing, the faculty from the School of Business replaced two courses from the former business core curriculum with four new courses.

The record shows that the faculty is also involved with other curriculum issues. For example, in March 2002, following a recommendation from the Academic Policies Committee, the Senate approved the criteria used to distinguish a bachelor of science degree from a bachelor of arts degree.

## **2. Academic policies**

Since 2001, the Senate has approved or modified 13 academic policies. For example, the Senate approved a change to the University's Academic Good Standing Policy in which it raised the minimum required grade point average for students during their first four semesters. Also, on various occasions in the past four years, the faculty of a particular program has determined that its students should either maintain a higher grade point average or obtain additional degree requirements (i.e., additional credit hours) in order to remain in good standing within that program. Such additional

requirements are solely determined by the faculty of the respective program without the need for any administrative approval.

Further, in October 2005, the Senate approved changes to the Dean's List requirements and the Honors program. In each case, the changes involved raising the scholastic standards necessary to reach those milestones, and each new policy becomes effective in the fall semester of 2006. Other approved Senate changes include modifications to the University's policies regarding exemptions from the core curriculum for transfer students, and three separate changes to the Academic Integrity Policy that deals with student dishonesty and possible student expulsion. In this latter regard, the Academic Deficiency Review Committee, composed of four faculty members and the registrar (who serves on an ex-officio basis), enforces the University's Academic Integrity Policy and has the authority to dismiss students or place them on suspension or probation for violating that policy.

### **3. Academic calendar**

Since at least 2001, the Senate annually reviews and approves the academic calendar, which it then forwards to President Lahey. There is no evidence that President Lahey has ever rejected the Senate's recommended academic calendar.

### **4. Course Scheduling**

With respect to the scheduling of courses, department chairpersons determine which faculty members within their department will teach each course and the time when such courses will be offered. In making these determinations, department chairpersons work in conjunction with their respective full-time department faculty to ascertain their teaching and scheduling preferences, and to ensure that students' needs are fully met. As discussed below, if additional faculty is required on a part-time basis, the chairperson recruits and assigns those faculty members to open courses.

The average enrollment in each class is approximately 22 students. However, in certain classes, such as those involving laboratory work or seminars, a school's Dean and faculty members can jointly agree to cap the size of the class to a lower or higher number than the average. Although not entirely clear, it appears that the University maintains the discretion to unilaterally cancel any course if the enrollment is less than seven students.

## **5. Admissions**

Admission standards and matriculation are handled differently by the graduate and undergraduate programs. With respect to the graduate program, the faculty members and the director (also a faculty member) of the respective graduate program formulate the program's admission requirements. Following the collection by the University's graduate admissions office of student applications, the same graduate faculty members and program director make the final decision regarding the selection of candidates. For example, in the School of Business' graduate program, the above-described Graduate Curriculum Committee reviews all graduate student applications.

With respect to the undergraduate program, it appears that minimum admission standards are uniform and set by the University. However, some departments or programs have discretion to set higher admission criteria. For example, the occupational therapy and physician assistant program each require additional math preparation, and all the health science courses require additional science courses.

## **6. Teaching Methods**

Each faculty member independently decides the manner and method by which they teach their courses. More specifically, they decide the course content; the texts to be used; whether or not to use technology, and if so, how, in presenting course material; the order in which the material is presented; and the manner in which student proficiency concerning the subject matter is to be assessed. The University requires each faculty member to prepare and distribute a course syllabus to each student. Although faculty members must include the basis on which a grade is determined on the syllabus, there is no administrative oversight of its remaining content.

## **7. Grading Policies**

The University requires that faculty members submit midterm grades in all 100-level courses. Apart from that requirement, each faculty member is solely responsible for determining the grades they issue to each student in a given class. Although most students are required to take final examinations in each class, faculty members have discretion to substitute a final examination with a term report, essay or personal conference. Generally, faculty members may also exempt from the final examination students whose work is of high quality. However, conditions governing such

exemptions are determined by the department faculty of the school. The Senate has also offered numerous recommendations on grading policy. In this regard, in April 2004, after consulting with the various Deans, the Senate approved a new grade appeal policy. Under this policy, when a student appeals their final grade, the student must first try to resolve the matter with the involved faculty member. If the matter goes unresolved, the student can appeal to a three-member faculty committee, chosen by the school's Dean, which ultimately issues a written final determination that either allows the grade to stand or requires the faculty member to recalculate the grade with chairperson oversight.

The University requires that faculty members must post, submit and distribute their final grades via computer to students and the University on an "electronic blackboard."

**C. Faculty Involvement in Non-Academic Affairs**

The faculty is extensively involved in the hiring process of full-time faculty members. When a faculty vacancy occurs, the faculty of the department where the vacancy exists prepare a job description. The Academic Affairs office places advertisements and collects applications. The department faculty reviews the applications and identifies three finalists, whom they invite to the University for interviews. The department faculty interview the three finalists and then issue a recommendation to the Dean and the Office of Academic Affairs regarding which candidate to hire. According to the unrebutted testimony of Dr. McCourt, Deans do not have any formal role in this process other than to determine an appropriate salary.

The faculty, including librarians, is also extensively involved in decisions regarding tenure, initial appointments, re-appointments<sup>4</sup>, promotions<sup>5</sup>, and other faculty retention issues. In this regard, under the terms of the collective-bargaining agreement, each department designates a Department Evaluation Committee, generally composed of all full-time faculty members from that department and three tenured members of the

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<sup>4</sup> Faculty members who are not tenured are re-appointed on an annual basis. However, formal reviews are performed following the faculty member's first, third and fifth year of teaching. If the evaluation is favorable, they are re-appointed.

<sup>5</sup> Faculty members can be promoted from assistant professor to associate professor and then to full professor.

full-time faculty from other departments, for the purpose of recommending action to be taken by the Senior Vice President for Academic Affairs with respect to initial appointments, re-appointments, evaluations, promotion, tenure, termination, discipline and academic freedom. Those recommendations first go to the Review Committee, which generally concurs with the department's recommendations, and then to the Academic Affairs office for final acceptance. There is no evidence that the University has ever rejected the recommendation of a department committee to appoint, re-appoint, promote, or grant tenure to a faculty member. Rather, the record reveals that the Academic Affairs office has only become involved on department committee recommendations to terminate a faculty member.

Moreover, in 2004, the Board of Trustees and the Senate approved an amendment to the University's Manual of Institutional, Academic and Personnel Policies to reflect the faculty's authority in this regard. The amendment specifies:

[O]nly full-time faculty at Quinnipiac and, in particular, those full-time faculty who serve as Department Chairs, have the authority to approve the credentials and the appointment of full-time and part-time faculty to teach any and all for-credit courses.

Based on the foregoing, since the 2001-2002 academic year, the faculty has approved 66 new faculty appointments, 200 re-appointments, 66 promotions, and granted tenure to 62 faculty members.

The faculty is also involved in the hiring of administrators. In this regard, among the college-wide and department-wide committees are various search committees established for the purpose of soliciting applicants for administrative (academic dean) positions. These search committees are generally composed of faculty members from within the school or department where the administrative vacancy exists, senior faculty from other schools or departments, and about one or two administrators, who are present primarily to answer questions posed by the faculty members of the committee. Similar to the process involved in hiring faculty members, these search committees prepare a job description, narrow the pool of applications received pursuant to an advertisement placed by the Academic Affairs office, and then invite the final three candidates to campus for an interview. At this stage, University officials become more involved and conduct interviews and determine which candidate to hire. For example,

in the School of Business, since 2002, search committees composed of that school's faculty have been formed to search for the school's Dean, its Associate Dean, the Assistant Dean for Career Services, and the MBA Director.<sup>6</sup> In each case, the search committee's first choice was the individual who was ultimately hired.

With regard to sabbatical leave, faculty members with six years of continuous full-time service at the University have the right to apply for one of two types of such leave. The first type provides half pay for one semester every four years or half pay for one year every seventh year. The second type provides full pay for one semester every seventh year. In either case, as previously discussed, interested faculty members submit requests for sabbatical leave to the Sabbatical Leave Committee, which approves the total number of leaves it will grant each academic calendar as well as the recipients of such leave.

As noted above, the Faculty Research Committee receives research proposals from faculty members and determines whether or not to grant research funds or not to extend research time to that faculty member.

Through the various department committees, faculty and Deans also recommend the granting of emeritus status to retired faculty members for their distinguished service. The Board of Trustees approves the granting of such status. There is no evidence that the Board of Trustees has ever rejected a faculty recommendation to grant emeritus status.

The faculty is also involved in the development of new University facilities. For example, the University is currently in the preliminary stages of designing at least one new classroom building for its graduate health program at its new campus on Sherman Avenue in Hamden. The faculty chairpersons of this degree program have met with and provided input to architects regarding the faculty's needs within that building, such as the size of classrooms, faculty offices and laboratories. The faculty was similarly involved in designing the School of Communications' McMahon Center, which is used as a center for radio and television broadcasting.

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<sup>6</sup> The search committee for the Dean also included one non-faculty administrator, the former Dean of the School of Health Sciences.

As noted above, the faculty, through the Senate's Finance Committee and the full Senate, is also involved in reviewing and approving the University's operating budget. In this regard, the University provides its vice presidents and Deans with guidelines in setting up their operating budgets for each fiscal year, such as operating within a 2% increase to the current budget. Following discussions with, and input from, program chairpersons and directors, the President's Cabinet may revise the original guidelines. After the Cabinet issues its final recommended budget, the Finance Committee reviews it and issues recommendations to the full Senate as to whether or not it should approve that budget. There is no evidence that the Senate has ever rejected the recommended budget.

The faculty is also involved in the University's re-accreditation process. Once every ten years, the University must be re-accredited by the New England Association of Schools and Colleges (NEASC). As part of this process, NEASC re-accreditation personnel conduct a site visit and issue a written report. In advance of the site visit, the faculty prepare a self-study report assessing institutional effectiveness. In addition, the University is required to submit an interim report every five years. To prepare this report, the University created three committees, two of which were composed primarily of faculty members, to review the central issues of the report, such as the ratio between full and part-time instructors, overall University effectiveness, and diversity in all University matters. Moreover, the faculty from the School of Business has an ongoing obligation to monitor and meet assessment and curriculum development standards within that school in order to maintain its accreditation under a separate accreditation body. Finally, the faculty of several schools, including the School of Communications, have recently approved accreditation for certain programs within that school. In such cases, the faculty is primarily responsible for determining whether or not to seek such accreditation and, later, for ensuring that accreditation standards are maintained.

#### **D. Applicable Law**

In *NLRB v. Yeshiva University*, *supra*, the Supreme Court held that the faculty members there were managerial employees excluded from the coverage of the Act. In reaching this conclusion, the Court adopted its definition of managerial employees set forth in *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 288 (1974) as those who "formulate



and effectuate management policies by expressing and making operative the decisions of their employer.” *Id.* at 683. In applying this definition, the Court explained that managerial employees further their employer’s interests “by taking or recommending discretionary actions that effectively control or implement employer policy.” *Id.* The Court specifically found that the *Yeshiva* faculty, through its participation in committees, had absolute control over curricula, academic calendar, course schedules, admissions and matriculation standards, teaching methods and grading policies. The *Yeshiva* faculty also effectively recommended policy decisions concerning hiring, tenure, promotions and sabbatical leave.

Since the *Yeshiva* decision, the Board has found a college’s faculty to be managerial employees even in the absence of such absolute control over academic policy. See *Elmira College*, 309 NLRB 842 (1992); *University of New Haven*, 267 NLRB 939 (1983); *Duquesne University*, 261 NLRB 587 (1982). In this regard, a finding of managerial status will not be overcome simply by the fact that faculty decision making is occasionally subject to the approval and/or veto power of the administration (see *American International College*, 282 NLRB 189, 202 (1986); see also *Yeshiva*, at n. 17), or because the faculty has no involvement in decisions involving non-academic affairs. See *University of Dubuque*, 289 NLRB 389 (1988); *Livingstone College*, 286 NLRB 1308 (1987).

## **II. Managerial Status**

Based upon the foregoing and the record as a whole, I find that the University’s full-time faculty members are managerial employees. More specifically, I note the extensive evidence of effective faculty participation in academic and non-academic affairs both in their individual decision-making capacity as well as their membership on numerous University-sanctioned committees. Thus, the faculty as a whole effectively determines and implements the curricular and academic policies of the University, as well as such non-academic matters as faculty hiring, leaves, promotion and tenure. In this regard, neither the University’s failure or refusal to approve all faculty recommendations in all matters, nor the University’s ability to unilaterally decide and implement certain matters, is a basis to deny managerial status. *Yeshiva*, *supra*; *Duquesne University*, *supra*; *American Int’l College*, *supra*; *Livingstone College*, *supra*.

In light of the above, I find that the full-time faculty of Quinnipiac University are managerial employees and are thus excluded from the Act's coverage. Accordingly, the Petitioner's petition to exclude all full-time faculty members from the unit is hereby granted. As the unit now includes no employees within the meaning of Section 2(3) of the Act, the Union's certification is hereby revoked. *College of Osteopathic Medicine*, 265 NLRB 295, 298 (1982).

**Right to Request Review**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570, or electronically pursuant to the guidance that can be found under "E-gov" on the Board's web site at [www.nlr.gov](http://www.nlr.gov). This request must be received by the Board in Washington by March 30, 2006.

Dated at Hartford, Connecticut this 16<sup>th</sup> day of March, 2006.

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/s/ Peter B. Hoffman  
Peter B. Hoffman, Regional Director  
National Labor Relations Board

Region 34